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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number

10/609,226

Filing Date

06/30/2003

First Named Inventor

Robert R. Lawson

Art Unit

3637

Examiner Name

A. Phi Dieu Tran

Total Number of Pages in This Submission

3

Attorney Docket Number

ENCLOSURES (Check all that apply)

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5/26/04

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Response to a Restriction Requirement

Application SN 10/609,226

This communication is a response to a requirement for restriction having a mailing date of 05/05/2004 and setting forth a shortened statutory period for response of one month which would expire on 06/05/2004.

The applicant has studied the examiner's action carefully and has come to the conclusion that some of the examiner's holdings are confusing.

First of all, the applicant agrees with the examiner's restriction of claims 1 - 8 as being drawn to a swimming pool and a grating group I and group II, claims 9 - 13 drawn to a method of assembling a grating for a swimming pool. The applicant does not agree with the reasons for holding these two inventions distinct from each other. The examiner should have stated that the claimed method of group II would be capable to make a different product.

From the examiner's action it appears that if the applicant elects group I, drawn to a swimming pool and grating, there appears to be a further election of species requirement and that is the claimed invention directed to the patentably distinct species of the claimed invention: Fig. 1, Fig. 2, Fig. 4 and Figs. 8 - 6.

The applicant is totally confused about this holding by the examiner. There are no different species claimed in the claims 1 -8. The Figs. identified by the examiner do not disclose or claim different species or embodiments, they are all the same. The Figs. identified by the examiner show the progressive installation of the swimming

pool bars and not new or different species (embodiments). Therefore, the examiner cannot hold different species, There are no different species.

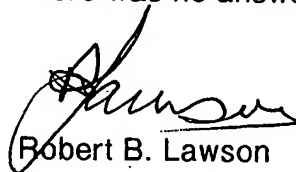
The above comments are not a traverse of the restriction requirement but are a rebuttal to the examiner's holding in that the examiner is incorrect.

Before continuing in the prosecution on the merits of this application, the examiner is respectfully requested to identify the different and claimed species in Figs. 1, 2, 4, and 8 - 6. As far as the applicant is concerned there are no different species or different embodiments in these Figs.

Therefore, the examiner is respectfully requested to reconsider the issued requirement for restriction.

The applicant makes a provisional election in the restriction requirement to be prosecuted claims 9 - 13 under a modified traverse.

The applicant has tried numerous times to contact the examiner by telephone to discuss the above noted issues. There was no answer.


Robert B. Lawson

Date of Signature:

5/26/04